
HOUSE BILL No. 1807

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-2-3; IC 20-12-19.5-1; IC 31-40-2-1; IC 35-38-2-1.

Synopsis: Probation. Makes numerous changes to probation laws, including the following: (1) Prohibits state colleges and technical schools from requiring the children or spouse of a probation officer killed in the line of duty to pay tuition under certain circumstances. (2) Increases probation user's fees. (3) Allows a court to order a person to pay a probation user's fee that exceeds the maximum amount allowed under Indiana law if the person was placed on probation in another state that allows a higher fee. (4) Allows a person to pay a monthly probation user's fee in advance without prior approval. (5) Allows a court to impose or increase a person's probation user's fee if the person's financial status changes. (6) Specifies that an order to pay a probation user's fee is a judgment lien. (7) Provides that a person placed on probation may be required to pay more than one initial probation user's fee. (8) Allows a court that orders a person to pay a probation user's fee to garnish the wages, salary, and other income earned by the person. (9) Provides that if a person is delinquent in paying the person's probation user's fees, the court may order the bureau of motor vehicles to not issue a driving license or permit to the person until the person has paid the person's delinquent probation user's fees. (The introduced version of this bill was prepared by the probation services study committee.)

Effective: July 1, 2001.

Mellinger, Foley

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1807

A BILL FOR AN ACT to amend the Indiana Code concerning probation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-24-2-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The bureau may not issue a
3 license or permit to the following individuals:

4 (1) An individual whose license issued under Indiana law to
5 operate a motor vehicle as an operator, a chauffeur, or a public
6 passenger chauffeur has been suspended, during the period for
7 which the license was suspended, or to an individual whose
8 license has been revoked, until the time the bureau is authorized
9 under Indiana law to issue the individual a new license.

10 (2) An individual whose learner's permit has been suspended or
11 revoked until the time the bureau is authorized under Indiana law
12 to issue the individual a new permit.

13 (3) An individual who, in the opinion of the bureau, is afflicted
14 with or suffering from a physical or mental disability or disease
15 that prevents the individual from exercising reasonable and
16 ordinary control over a motor vehicle while operating the vehicle
17 upon the public highways.

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(4) An individual who is unable to understand highway warnings or direction signs written in the English language.

(5) An individual who is required under this chapter to take an examination unless the person successfully passes the examination.

(6) An individual who is required under IC 9-25 to deposit proof of financial responsibility and who has not deposited that proof.

(7) An individual when the bureau has good cause to believe that the operation of a motor vehicle on a public highway of Indiana by the individual would be inimical to public safety or welfare.

(8) An individual who is the subject of an order issued by:

(A) a court under IC 31-14-12-4 or IC 31-16-12-7 (or IC 31-1-11.5-13 or IC 31-6-6.1-16 before their repeal); or

(B) the Title IV-D agency;

ordering that a driving license or permit not be issued to the individual.

(9) An individual who is the subject of an order issued by a court under:

(A) IC 31-40-2-1(i); or

(B) IC 35-38-2-1(o);

ordering that a driving license or permit not be issued to the individual.

(b) An individual subject to epileptic seizures may not be denied a license under this section if the individual presents a statement from a licensed physician that the individual is under medication and is free from seizures while under medication.

SECTION 2. IC 20-12-19.5-1, AS AMENDED BY P.L.52-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The children of:

(1) regular, paid law enforcement officers;

(2) regular, paid firefighters;

(3) volunteer firefighters under IC 36-8-12-2;

(4) county police reserve officers; ~~or~~

(5) city police reserve officers; ~~or~~

(6) probation officers;

who have been killed in the line of duty shall not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the children are under the age of twenty-three (23) and are full-time students pursuing a prescribed course of study.

(b) The surviving spouse of a:

(1) regular, paid law enforcement officer;

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- (2) regular, paid firefighter;
- (3) volunteer firefighter under IC 36-8-12-2;
- (4) county police reserve officer; ~~or~~
- (5) city police reserve officer; **or**
- (6) probation officer;**

who has been killed in the line of duty may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the surviving spouse is pursuing a prescribed course of study at the institution towards an undergraduate degree.

(c) This section applies to the children and surviving spouse of a:

- (1) regular, paid law enforcement officer;
- (2) regular, paid firefighter;
- (3) volunteer firefighter under IC 36-8-12-2;
- (4) county police reserve officer; ~~or~~
- (5) city police reserve officer; **or**
- (6) probation officer;**

if the public safety officer described in this subsection was killed in the line of duty before, on, or after July 1, 1993.

SECTION 3. IC 31-40-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to the probation department:

- (1) an initial probation user's fee of at least twenty-five dollars (\$25) but not more than one hundred dollars (\$100); and
- (2) a probation user's fee of at least ~~five~~ **ten** dollars (~~\$5~~) (**\$10**) but not more than ~~fifteen~~ **twenty-five** dollars (~~\$15~~) (**\$25**) for each month the child receives supervision.

If a clerk of a court collects a probation user's fee, the clerk may keep not more than six percent (6%) of the fee to defray the administrative costs of collecting the fee.

(b) The probation department shall deposit the probation user's fees paid under subsection (a) into the county supplemental juvenile probation services fund.

(c) Notwithstanding the probation user's fee amounts established under subsection (a), a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under subsection (a) if:

- (1) the person was placed on probation in another state and moved or was transferred to Indiana;**
- (2) the other state allows a higher probation user's fee than**



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the maximum amount allowed under subsection (a); and
 (3) the probation user's fee the court orders the person to pay
 does not exceed the maximum amount allowed in the other
 state.

(d) A person may pay a monthly probation user's fee under this
 section before the date the payment is required to be made without
 obtaining the prior approval of a court or a probation department.
 However, if a delinquent child is discharged from probation before
 the date the delinquent child was scheduled to be released from
 probation, any monthly probation user's fee paid in advance for
 the delinquent child under this subsection may not be refunded.

(e) A probation department may petition a court to:

- (1) impose a probation user's fee on a person; or
- (2) increase a person's probation user's fee;

under this section if the financial ability of the person to pay a
 probation user's fee changes while the person is on probation.

(f) An order to pay a probation user's fee under this section:

(1) is a judgment lien that:

- (A) attaches to the property of the person subject to the
 order;
- (B) may be perfected;
- (C) may be enforced to satisfy any payment that is
 delinquent under this section; and
- (D) expires;

in the same manner as a judgment lien created in a civil
 proceeding;

(2) is not discharged by the completion of the person's
 probationary period or other sentence imposed on the person;
 and

(3) is not discharged by the liquidation of a person's estate by
 a receiver under IC 34-48-1, IC 34-48-4, IC 34-48-5, and
 IC 34-48-6.

(g) A delinquent child placed on probation for more than one (1)
 delinquent act:

- (1) may be required to pay more than one (1) initial probation
 user's fee; and
- (2) may not be required to pay more than one (1) monthly
 probation user's fee per month;

to the probation department.

(h) If a court orders a person to pay a probation user's fee
 under this section, the court may garnish the wages, salary, and
 other income earned by the person to enforce the order.

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(i) If:

(1) a person is delinquent in paying the person's probation user's fees required under this section; and

(2) the person's driving license or permit has been suspended or revoked or the person has never been issued a driving license or permit;

the court may order the bureau of motor vehicles to not issue a driving license or permit to the person until the person has paid the person's delinquent probation user's fees.

SECTION 4. IC 35-38-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Whenever it places a person on probation, the court shall:

(1) specify in the record the conditions of the probation; and

(2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (c). If the person was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (d). The court may:

(1) modify the conditions (except a fee payment under subsection (c)); or

(2) terminate the probation;

at any time. If the person commits an additional crime, the court may revoke the probation. **If a clerk of a court collects a probation user's fee, the clerk may keep not more than six percent (6%) of the fee to defray the administrative costs of collecting the fee.**

(c) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

(1) not less than ~~twenty-five~~ **one hundred** dollars ~~(\$25)~~ **(\$100)** nor more than ~~one two~~ hundred dollars ~~(\$100)~~ **(\$200)** as an initial probation user's fee;

(2) a monthly probation user's fee of not less than ~~five~~ **fifteen** dollars ~~(\$5)~~ **(\$15)** nor more than ~~fifteen~~ **thirty** dollars ~~(\$15)~~ **(\$30)** for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV)

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1 if such tests are required by the court under section 2.3 of this
2 chapter; and

3 (4) an alcohol abuse deterrent fee and a medical fee set by the
4 court under IC 9-30-9-8, if the court has referred the defendant to
5 an alcohol abuse deterrent program;

6 to the probation department.

7 (d) In addition to any other conditions of probation, the court may
8 order each person convicted of a misdemeanor to pay:

9 (1) ~~not more less than a fifty dollar~~ **dollars (\$50) nor more than**
10 **one hundred dollars (\$100) as an** initial probation user's fee;

11 (2) ~~not more than a ten dollar (\$10)~~ **monthly probation user's fee**
12 **of not less than ten dollars (\$10) nor more than twenty dollars**
13 **(\$20)** for each month that the person remains on probation; and

14 (3) the costs of the laboratory test or series of tests to detect and
15 confirm the presence of the human immunodeficiency virus (HIV)
16 antigen or antibodies to the human immunodeficiency virus (HIV)
17 if such tests are required by the court under section 2.3 of this
18 chapter;

19 to the probation department.

20 (e) All money collected by the probation department under this
21 section shall be transferred to the county treasurer who shall deposit the
22 money into the county supplemental adult probation services fund. The
23 fiscal body of the county shall appropriate money from the county
24 supplemental adult probation services fund to the county, superior,
25 circuit, or municipal court of the county that provides probation
26 services to adults.

27 (f) All money collected by the probation department of a city or
28 town court under this section shall be transferred to the fiscal officer of
29 the city or town. The fiscal officer shall deposit the money into the
30 local supplemental adult probation services fund. The fiscal body of the
31 city or town shall appropriate money from the local supplemental adult
32 probation services fund to the city or town court of the city or town for
33 the court's use in providing probation services to adults or for the
34 court's use for other purposes as may be appropriated by the fiscal
35 body. Money may be appropriated under this subsection only to those
36 city or town courts that have an adult probation services program. If a
37 city or town court does not have such a program, the money collected
38 by the probation department must be transferred and appropriated as
39 provided under subsection (e).

40 (g) Except as provided in subsection (i), the county or local
41 supplemental adult probation services fund may be used only to
42 supplement probation services and to increase salaries for probation

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officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(h) A person placed on probation for more than one (1) crime:

(1) may ~~not~~ be required to pay more than ~~(1)~~ one (1) initial probation user's fee; and

(2) **may not be required to pay more than one (1) monthly probation user's fee per month;**
to the probation department.

(i) This subsection applies to a city or town located in a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred sixty thousand (160,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

(j) Notwithstanding the probation user's fee amounts established under subsections (c) and (d), a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under subsection (c) or (d) if:

(1) the person was placed on probation in another state and moved or was transferred to Indiana;

(2) the other state allows a higher probation user's fee than the maximum amount allowed under subsection (c) or (d); and

(3) the probation user's fee the court orders the person to pay does not exceed the maximum amount allowed in the other state.

(k) A person may pay a monthly probation user's fee under this section before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if a person is discharged from probation before the date the person was scheduled to be released from probation, any monthly probation user's fee paid in advance under this subsection may not be refunded.

(l) A probation department may petition a court to:

(1) impose a probation user's fee on a person; or

(2) increase a person's probation user's fee;

under this section if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

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1 (m) An order to pay a probation user's fee under this section:

2 (1) is a judgment lien that:

3 (A) attaches to the property of the person subject to the
4 order;

5 (B) may be perfected;

6 (C) may be enforced to satisfy any payment that is
7 delinquent under this section; and

8 (D) expires;

9 in the same manner as a judgment lien created in a civil
10 proceeding;

11 (2) is not discharged by the completion of the person's
12 probationary period or other sentence imposed on the person
13 for a felony or misdemeanor; and

14 (3) is not discharged by the liquidation of a person's estate by
15 a receiver under IC 34-48-1, IC 34-48-4, IC 34-48-5, and
16 IC 34-48-6.

17 (n) If a court orders a person to pay a probation user's fee
18 under this section, the court may garnish the wages, salary, and
19 other income earned by the person to enforce the order.

20 (o) If:

21 (1) a person is delinquent in paying the person's probation
22 user's fees required under this section; and

23 (2) the person's driving license or permit has been suspended
24 or revoked or the person has never been issued a driving
25 license or permit;

26 the court may order the bureau of motor vehicles to not issue a
27 driving license or permit to the person until the person has paid the
28 person's delinquent probation user's fees.

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